ON SOME TIMELY QUESTIONS OF SPACE LAW

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Since the beginning of the exploration of the cosmic space, about twenty years ago, a vast mass of new material has come to be absorbed by international law. During the lapse of a few years, mostly in response to resolutions passed in the General Assembly of the United Nations, some fundamental rules of customary law relating to space have become firmly established. What is perhaps most characteristic of the rapid development is that scarcely nine years after the first satellite had been launched, on the 27th January, 1967 the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and other Celestial Bodies was opened for signature.

This Treaty consolidated and set forth in greater detail the customary rules at that time already established or *in statu nascendi*. The Treaty is of particular significance because in it principles of general validity have been laid down which have to be considered normative for all kinds of activities in outer space. Other conventions following upon the basic Treaty of 1967 substantially set forth the rules and principles laid down in the Space Treaty in yet greater detail so as to eliminate or at least mitigate any difficulties that might arise in the application of the provisions of the basic Treaty. It was on this understanding that the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, the Convention on International Liability for Damage Caused by Space Objects and the Convention on the Registration of Objects Launched into Outer Space were born.

The Treaty of 1967, however, failed to tackle questions of a general nature apt to arise in connexion with activities in outer space in their entirety, the less could it attempt to formulate concrete rules to govern the practical application of certain achievements of space technology. This shortcoming of the Treaty is wholly understandable: in fact the drafters of the Treaty had above all to provide for the legal framework absolutely essential for the exploration of outer space. Now, however, that by the side of exploratory work beginnings have been made with the exploitation of space technology for practical ends the need has come to the fore, first, for the legal regulation of still unsettled problems of a general kind, and,

secondly, for the legal regulation of certain concrete practical ways of application of space technology.

Of the questions of a general nature two have already turned up in the General Assembly of the United Nations, and pursuant to several resolutions of the General Assembly have already been submitted to the Legal Sub-Committee of the UN organ entrusted with the international legal regulation of space activities, the Committee on the Peaceful Uses of Outer Space, now composed of 47 members. One of these questions may seem to be the preliminary question or even precondition of regulation under international law, whereas the second appeared as justified by the fact that space objects launched by the Soviet Union and the United States have already reached the Moon, moreover the United States has even landed astronauts on this celestial body. The first question relates to the delimitation of the outer space as opposed to air-space, the second deals with the definition of the legal status of the Moon and possibly other celestial bodies.

The first question is closely associated with the Treaty of 1967. This Treaty has exactly been meant to bring under regulation the fundamental problems relating to outer space. It stands to reason, therefore, that above all the territorial confines have to be established whence the provisions of the basic treaty become applicable, i. e. the confines in space where the air-space under the sovereignty of states ends and cosmic space begins, which in conformity with Article II of the Treaty 'is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means'. It is by no means accidental that the French jurists brought up on Cartesian logic are the protagonists of the conception according to which the delimitation of air-space and the cosmic space has to be regarded as the cardinal issue of space law, and therefore in the opinion of the partisans of this conception priority has to be granted to it above any other question. In the UN Legal Sub-Committee it is the French delegation which as a rule takes the most definite stand for the settlement of this issue.

As is known in the literature of international law a number of theories have already been advanced for the establishment of the considerations which according to the initiators and propagators of these theories could be resorted to with success for the delimitation of outer space. At the same time it is obvious that in this initial phase of the practical application of space technology there is a large number of states which refuse to align themselves to the one or the other theory since the possible future consequences of such an alignment cannot be foreseen.

A lay onlooker might be tempted to believe that some sort of anarchy seems to prevail in cosmic space and that owing to the large number of objects launched into space 'frontier disputes' are the order of the day. Fortunately such anxieties are unfounded and apart from an invented dispute to be discussed below, the uncertainty of the frontier line for the time being does not in the least obstruct the peaceful exploration and use of the outer space.

The UN Legal Sub-Committee, which in its annually convened four-week sessions devotes an hour or two at most to this seemingly unsolvable

problem, in its position has set out from the understanding that in the present situation only such activities should be brought under regulation as the states or certain international organizations perform in outer space and as cannot be performed elsewhere. If activities of this kind shall come up for legal regulation, then as space technology stands at present the issue of delimitation cannot be considered such of primary importance. In fact so far the states have agreed that the space objects launched are already at their perigee, i.e. the point at which the objects in their orbit are nearest the earth, outside the air-space under the sovereignty of states.

Recently a certain phenomenon has evoked in many the anxiety whether the uncertainty of the upper limit of the air space might not tempt to bringing forward claims very much the same as have been laid by certain states as regards the territorial sea, a question which the Geneva conventions of 1958 failed to define so as to preclude any doubts as to its maximum extension.[1] Without any exaggeration the statement may be made that one of the causes of the collapse of the system called to life by the Geneva conventions on the law of the sea was the claim laid by a number of countries to the extension of the territorial sea to 200 miles. Recently we may witness the phenomenon that the equatorial states lay claim to the extension of their sovereignty to what is called the geostationary orbit, which may be drawn at a height of about 35 800 kilometres above the Equator. The geostationary orbit, which permits the artificial satellites placed on it to stay during their revolutions above the same point of the earth, lends itself in particular readily for the operation of artificial satellites serving the ends of radio and television broadcasts and meteorological observations, and even for other tasks. Still the number of objects that can be accomodated in this orbit is limited. The states through whose territory the Equator runs would, of course, like to exploit the advantages this orbit offers for their benefit, and therefore in the 1977 Geneva world conference of the International Telecommunication Union the majority of these states, i. e. eight equatorial states declared their intention to make good their claims to the geostationary orbit, which they regarded as constituting part of their natural resources. These states laid down their claims partly in declarations attached to the Final Acts of the conference, partly in other documents submitted to the Conference.[2]

A large number of states attending the Conference of the International Telecommunication Union decidedly rejected this claim of the equatorial states. In the Conference the majority of the socialist countries, among them the Hungarian People's Republic, in a declaration made at the signature of the Final Acts of the Conference,[3] referring to declarations made by certain states in connexion with the geostationary orbit made it clear that the resolutions of the Conference relating to the use of the geostationary orbit were in complete agreement with the generally accepted principles and rules of international law hereincluded the International Telecommunication Convention and the pertinent Regulations. In another declaration[4] the socialist states reserved the right to institute the necessary measures for the proper operation of their telecommunication services

should the one or the other country fail to observe the resolutions passed by the Conference. A number of capitalist states, too, made statements objecting to the position the equatorial states had taken, however, in their argumentations they merely stated that issues regarding the geostationary orbit did not appear on the agenda of the Conference and therefore, these could not come up for discussion, moreover the discussion of this issue closely associated with the question of the delimitation of space came within the competence of the Space Committee of the United Nations, or still better, within that of its two sub-committees.

Obviously this argumentation, too, encouraged the equatorial states to raise the issue of the geostationary orbit in the 16th session of the Legal Sub-Committee of the UN Committee on the Peaceful Uses of Outer Space held in New York, in 1977.[5] Still at that time the issue had not been discussed in its substance in the Sub-Committee. On the other hand the issue had been taken up on the agenda of the 17th session of the Sub-Committee held in Geneva, in 1978, and came up for discussion there.

Which are the reasons brought forward by the equatorial states to substantiate their claims to sovereignty over the geostationary orbit? The declaration signed by the eight states referred to[6] in Bogotá on the 3rd December, 1976, before the opening of the conference of the International Telecommunication Union sets out from the statement that the existence of the geostationary orbit is closely associated with gravitational phenomena and cannot, therefore, be considered part of the outer space. Consequently the particular sections of the orbit constitute part of the territory under the sovereignty of the equatorial states and qualify as natural resources of which the given states dispose. According to this declaration the provisions of the 1967 Space Treaty cannot affect the rights of the equatorial states also because the delimitation of outer space has not as yet taken place, and so arguments brought forward to the effect that the geostationary orbit is part of outer space cannot hold their own. All that has so far become established in practice is but the „technological partition" of the orbit, an act which amounts to the „national appropriation" of the orbit, i.e. something the equatorial states have to denounce. In the separate instruments submitted to the Conference, so in particular in the Indonesian document, there is express reference to the law of the sea on the analogy of which state sovereignty has developed in outer space. Moreover mention has been made of the theory of the infinite vertical extension of state sovereignty, i.e. of sovereignty *usque ad caelum*.

At the present stage of development of international space law this argumentation can be refuted without difficulty. Although the 1967 Treaty does not establish the lower limits of cosmic space, still it clearly and decidedly states – as already indicated – in Article II the thesis that 'Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim to sovereignty, by means of use or occupation, or by any other means.' Nor can it be called into doubt that the geostationary orbit at a height of nearly 36 000 kilometers is veritably part of the cosmic space. As a matter of fact the apogee of many an artificial satellite

running their courses is far below this height. If the lower limits of outer space can become a matter of dispute at all, so any dispute will have to concentrate on whether this limit should be at a height of 80, 90 or perhaps 130 kilometers.[7] It is a commonly known fact that the perigee of a large number of space objects is somewhere at these heights, and, as has already been told, so far no country has objected to space activities at these heights on the plea that the penetration of space objects to this part of space has violated its sovereignty. Consequently the states concerned regarded this space as the part of outer space. Whether or not the geostationary orbit is in the one way or the other associated with terrestrial gravitation is meaningless for the purpose of the establishment of its legal status. Once the orbit is situated in the cosmic space, it will obviously share the legal fate of this space irrespective of to what its physical properties may be attributed. If on the other hand for its peculiarities and for the fact that its properties can be exploited by a limited number of space objects only the geostationary orbit is considered a natural resource, this circumstance can in no way be construed so as to confer a privileged position on the states situated below at a distance of about 36 000 kilometers, with respect to other states. If this were the case, we should obviously come into conflict with the provisions of the standard treaty relating to outer space referred to above, which are normative also for the natural resources of outer space.[8]

The question may now be asked as to the position of the equatorial states which have not become parties to the 1967 Treaty. Although the Treaty has met with considerable response on the part of the states, and until the beginning of 1977 92 states have become parties to it, which is a fairly large number when compared to that of the signatories to other important multilateral treaties and conventions, nevertheless more than a third of the community of states has failed to sign it. Among these is Colombia, whose observer in the session of the Legal Sub-Committee did not fail to point out that the Treaty was not binding on his country.

In our opinion in the given instance it is meaningless whether or not a state has become party to the 1967 Treaty. Namely if any of the provisions of a treaty is uniform with an established general rule of international customary law, then as a matter of course the same obligations are binding on the signatories as well as non-signatories. As the International Court of Justice has in its judgements in the disputes between the Federal Republic of Germany and Denmark and then between the Federal Republic of Germany and the Netherlands on the continental shelf of the North Sea established, a situation just referred to may arise in two ways. It is possible that the treaty merely declares an already established rule of customary law, still it may also occur that the practice developed by the states abstaining from the treaty in reaction to the provisions of this treaty and as for the content uniform with them will give birth to a general rule of customary law.[9]

The General Assembly of the United Nations laid down the principle of the free use of outer space long before the approval of the standard treaty in several resolutions, of which we would refer to the most important

only, namely to Resolution 1962 (XVIII), entitled 'Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space' In para. 2 this resolution unanimously approved and called a Declaration states: "Outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law."

Para. 3, which has been incorporated verbatim in the above quoted provision of the 1967 Treaty states that no state can appropriate outer space or the celestial bodies. The General Assembly approved the resolution on the 13th December, 1963, i.e. more than six years after the first artificial satellite had been launched. The resolution already reflected the unanimous position the states adopted in respect of the legal status of outer space. The position of the states was expressed by their uniform attitude, i.e. by taking note without protest of the fact that artificial satellites launched by other states freely revolve in the region of the cosmic space above their territory without their previous consent. When the treaty bringing under regulation issues associated with the exploration and use of outer space, which with insignificant modifications incorporated the above quoted paragraphs of the resolution of the General Assembly of 1963, came to be submitted to the General Assembly, it was in like way unanimously approved on the 19th December, 1966.[10] Therefore safely the statement may be made that even as early as 1963 the case was not one of the adoption of a courtesy rule, but of the circumstance that the totality of the states recognized the advantages of the freedom of outer space for all, and that already at that time the *opinio iuris* required for the creation of a rule of customary law was firmly established. Yet even if doubts could emerge at that time, the adoption of resolution 2222 (XXI) of 1966 did away with them for good. It was not until 1976 that opinions turned up which called into doubt the character of a *res communis* of outer space, which shows that the states agreed on the principles developed in respect of the legal status of the outer space.[11]

Hence the issue of the limits of state sovereignty does not emerge in a uniform manner in the outer space and on the sea. There were though certain provisions in the law of the sea from which conclusions could be drawn as to the maximum extension of the territorial waters, still this extension had not been brought under a uniform, unambiguous regulation. Moreover, hardly two years after the 1958 Law of the Sea Conference a new conference was convened solely for the establishment of the extension of the territorial waters, a circumstance which by itself indicates that the states do not regard the issue as settled. This was in particular evident after the unsuccessful termination of the conference. On the other hand as regards outer space we may speak on the strength of what has been set forth above of an established rule of customary law at least what concerns the space beyond the perigee of the orbits described by the artificial satellites.

What conclusions may therefore be drawn from what has been set forth so far as to the question of the delimitation of outer space? Legal

thinking as a matter of course will be inclined to clear and hard and fast delimitations, which in general prove helpful when it comes to settle disputes. Still in the given instance we have to admit that until of late it was of by far greater importance to define with exactitude the rules governing activities displayed in outer space rather than waste energy on the precise delimitation of air space and outer space. When, however, now it appears as if with regard to the rapid rate of technological progress the issue had to be considered in another manner, then we will not adopt this position merely because as regards the geostationary orbit actually in many respects indispensable for mankind certain states have appeared with claims to expropriating it. A change of the outlook has rather become necessary that the space shuttle now under test and in the near future probably to be put into operation in certain respects combines the properties of the spacecraft and aircraft and therefore it might become doubtful what provisions of law are applicable to it. This on the other hand implies the risk that the limits between air space and outer space established within the scope indicated before with more or less certainty and accuracy might become blurred. Consequently in fact a chaotic situation might arise. It was not, therefore, surprising when in the 17th session of the Legal Sub-Committee certain states which hitherto accepted the functional theory as satisfactory, regarded the delimitation of air space and outer space at a height of 100 – 110 kilometres as justified. We are, of course, still far away from the formation of a consensus on this understanding, still the solution of the issue in the one way or other is in any case in a process of maturation. In our opinion, however, even in the event of a delimitation of this kind, provision should also be made for granting the right of innocent passage to the states in the same way as it has been granted in respect of the territorial waters, for launching their space objects through the air space of other states and also their return to the earth.

The delimitation of air space and outer space will at the same time settle the artificial dispute provoked by certain equatorial states in respect of the geostationary orbit. This does not, however, mean as if in respect of the use of the geostationary orbit an international regulation could be dispensed with. Naturally such an orbit can accomodate a finite number of artificial satellites only. Though the geostationary orbit is still far from being fully occupied by the space objects placed on it, care should be taken in due time by the removal of non-operating artificial satellites to defer the state of saturation to as remote a date as possible and that the benefits afforded by the orbit should be available for all states.[12]

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There is yet another point of principle regarding outer space which still calls for regulation. This is the definition of the legal status of the Moon and possibly of other celestial bodies with greater accuracy. Here again there is a problem of the same kind as in the case of problems brought under regulation by the conventions already in force and referred to in the introductory section. The standard treaty of 1967 namely contains rules

applicable to the Moon and other celestial bodies, when it, first, specially emphasizes that the provisions defined for the outer space are equally applicable to the Moon and other celestial bodies, and, secondly, establishes special rules for the latter, in particular as the freedom of entry on them and even more their demilitarization is concerned. The special regulation by a treaty may be justified in so far as it could expound or supplement the rules taken up in the standard treaty. This was the outlook of the draft treaty the government of the Soviet Union submitted to the General Assembly of the UN in 1971. The General Assembly, by Resolution 2779 (XXVI), passed on the draft to the UN Committee on the Peaceful Uses of Outer Space for further study.

While the Soviet draft, inevitably, reiterates some of the provisions of the standard treaty it lays special stress on the application of the principle of international law declaring the prohibition of the use of force also to the Moon, the more because the standard treaty mentions in general terms only that space activities have to be performed in agreement with international law. The Soviet draft incorporates important provisions on the freedom of landing on the Moon and on that of exploratory work to be continued there, on making clear their necessary limits for safeguarding "the interests of present and future generations".

We may reasonably suppose that the Soviet draft which usefully supplements the provisions of the 1967 Treaty, has met with the approval of the Space Committee without objections, and so also that of the General Assembly. However, to this day the consensus required for its approval is still wanting, and the draft has provoked passionate disputes in the committee. Actually the disputes are waged round a single fundamental issue, whose regulation has been intentionally omitted in the Soviet draft as premature, viz. the legal status of the natural resources of the Moon.

The silence of the Soviet draft on this issue appeared to be justified for the very reason that accurate data on such resources on the Moon are still wanting, although it is beyond dispute that natural resources are there too. A large-scale exploitation of these resources and their use on the Earth cannot, however, be expected in the near future. It cannot, therefore, be the function of international law to bring under regulation potential problems of the coming century several decades in beforehand, at a moment when a number of important and urgent questions could not be settled in the proper manner, not to mention the circumstance that the development of interstate relations cannot be foreseen for such distances in the temporal order.

A group of the developing countries would have the natural resources of the Moon qualified as the "common heritage of mankind". Proposals on this understanding have already been submitted to the Legal Sub-Committee. The use of the term 'heritage' borrowed from civil law and in interstate relations of undefined meaning, not to speak of the qualification of mankind as a subject of international law, might provoke a certain astonishment, if we were not used to the application of the same term to the resources of the sea-bed and subsoil beyond the continental shelf so fre-

quent in the skirmishes of the IIIrd conference on the law of the sea now going on for many years. There are, however, vast differences between the two areas for the very fact that whereas as regards the sea the exploitation of the natural resources from considerable depths is already within technological potentialities, the situation as regards the Moon is a wholly different one, not to mention the fact that our acquaintance with the sea-bed is a more thorough one than with the Moon where exploration is still in the initial phase.

For the purpose of regulation this is essential for the simple fact that when we wish to consider the natural resources of the Moon in a general way, without the concrete definition of the content of the term, the common heritage of mankind, or by translating this hazy expression into legal parlance of greater clarity, the undivided common property of all states, then by this we should obviously place serious obstacles in the way of the further exploration of the Moon. What as regards the seabed appears to be feasible without hampering progress in any appreciable measure, even when it does not help to clarify still moot questions, might for the time being amount to serious difficulties as far as the Moon is concerned. It is exactly for this reason that the proposal supported by a number of states that the elaboration of the legal régime of the exploitation of the natural resources of the Moon should take place at a time when such exploitation is technically feasible, appears to be justified. This position found expression in the Bulgarian draft of 1974 which already outlined some of the fundamental considerations to be observed at a future regulation.[13] Neither has this solution met with the approval of the developing countries represented in the Sub-Committee, so that agreement seems to be imaginable only in the one or the other form of a compromise. Since the developing countries absolutely insist on the incorporation of the term of 'common heritage of mankind' in the treaty, whereas other states would accept only a definition formulated in a more concrete manner, it is obvious that a compromise cannot be reached unless the term the developing countries suggest is accepted after its content has been formulated with greater accuracy.

After protracted sterile disputes the 1978 session of the Legal Sub-Committee has taken this course and a new, complete draft, designated as the Austrian working paper, has been submitted.[14] According to the passage incorporating the compromise text the Moon and its natural resources are 'for the purposes of this Agreement' the common heritage of mankind which 'finds its expression in the relevant provisions of this Agreement'. This implies also that the international régime governing the exploitation of natural resources, hereincluded the appropriate procedures, should on the grounds of the above principle be worked out by a conference to be convened in the future, and this régime should then come into operation as soon as exploitation becomes feasible. The draft, however, already at present provides that the international régime shall include the orderly and safe development of the natural resources of the Moon, the extens on of their rational management, the expansion of opportunities in the r use

and an equitable sharing by all states parties in the benefits derived, with special regard to the developing countries and to those states whose efforts have contributed to the exploration of the Moon.

The outlines of the principles here suggested are seemingly still somewhat indistinct, still this should be attributed to the merits of the draft rather than to its shortcomings. This is the case because the practical application of the provisions of the draft is a matter of the rather remote future when the exploitation of the natural resources of the Moon will technically and with due regard to considerations of economy become possible. Until then our acquaintance with the Moon will obviously become more thorough. Incidentally no decision on the substance was born in the last session of the Sub-Committee, for although there was no declared opposition to the proposals brought forward in the draft not a single delegation was in the position for the time being to take a definitive stand within its own powers.

On the other hand, on the assumption of a settlement of the problem of natural resources it was not difficult to come to an agreement as regards the two still pending issues. Namely it was argued whether the provisions of the agreement originally relating to the Moon should in general extend to celestial bodies or should remain restricted to the Moon. The 1967 Treaty expressly mentions the Moon and other celestial bodies, i.e. its provisions equally apply to celestial bodies in general. It appears reasonable therefore, that the provisions to be laid down in the agreement on the Moon should equally extend to all celestial bodies. At the same time since our acquaintance with the other celestial bodies are in reality scanty the considerations set forth earlier will hold with even greater strength, so that a legal regulation going into details is in fact premature and for practical purposes at present meaningless. The new draft adopts the first outlook and extends its provisions to the Moon as well as to other celestial bodies of the solar system until for the one or the other of them no specific legal norms will come into force.[15]

The other still unsettled issue related to the content and the time of the information to be provided on missions launched for the exploration of the Moon and the results achieved in such exploration. Here mainly the standpoints of the states insisting on the preliminary information in connexion with the launching of spacecraft and that of the states considering preliminary information needless clashed. Neither this question must be regarded as one of cardinal importance, and so the new draft, dependent on the approval of the regulation relating to the natural resources, provides for a solution appearing to be acceptable also as regards information. Accordingly the state launching the space object should as soon as possible inform the Secretary General of the UN, the public and the "international scientific community" of the data named in the draft, while information on the results achieved by the mission should be furnished after the completion of it.

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The scope of application of space technology tends to expand continually. Two spheres of issues, however, have taken shape where the urgent nature of the settlement is striking and which the Legal Sub-Committee has dealt with more or less success during the latter years. One of these spheres is that of telecommunications, the other that of remote sensing.

Telecommunication by means of artificial satellites has found practical application within a wide range and is even in the focal point of international organizations (Intersputnik, Intelsat, Inmarsat). Within the sphere of telecommunication, however, an extremely moot question awaits settlement with utmost urgency. It is that concerning direct television broadcasting.

By direct TV broadcasting service in the narrow sense such TV broadcasts by means of artificial earth satellites are understood, which without the insertion of terrestrial relay stations reproduce TV picture and sound on domestic TV sets. The possible ways of a solution of the question have already been defined, and in the opinion of experts within a few years these may come to be translated into practice without expenses unbearable by individuals.

If the broadcasting state intends the direct TV broadcasts for a foreign state a number of problems will be apt to emerge which call for international regulation. Some of the rules of international law already in operation may safely be applied to these direct TV broadcasts, still in addition certain questions call for a new specific legal regulation.

During the latter few sessions the Legal Sub-Committee has already formulated nine tentative principles to govern the space activity here discussed, which may be considered definitive only after the drafting and approval of the entire set of principles. The nine already drafted principles expressly state that activities aimed at direct TV broadcasting can be pursued only in complete agreement with the rules of international law. Special stress has been laid on the United Nations Charter, on the 1967 Treaty, the International Telecommunication Convention and its Regulations and on the international instruments relating to friendly relations and cooperation among states and to human rights.[16] This enumeration in addition to precisely defined rules of international law by referring to the United Nations Charter, further the Declaration on interstate relations and cooperation emphasizes the normative character of the principles of international law. Incidentally the principle of cooperation already turns up in the first principle the Sub-Committee has formulated. Among the ends of space activity in the form of direct TV broadcasting this principle in conjunction with the maintenance of international peace and security makes mention of the development of cooperation between all states and peoples. Another principle points out that direct TV broadcasting by means of artificial satellites should be based upon international cooperation.

One of the nine principles so far formulated draws practical consequences from the principle of cooperation when it states that if the direct TV broadcasting service of any state may have an effect on any other state,

so upon request of the latter the transmitting state has to take up the matter with the other party in consultations.

Yet does this obligation of consultation suffice for the establishment of the thrice emphasized cooperation ? It would be hard to answer this question in the affirmative when this specific *pactum de negotiando* does not of necessity bring about an agreement between the parties to the dispute, so that in the given matter there cannot at all times be talk of cooperation. Yet television with its through space technology enormously extended range and so with an important role in the advancement of peace and the mutual understanding between states and peoples may owing to its propaganda powers become a dangerous weapon in the competition between the states. In order to eliminate this contingency we may have to go beyond the obligation of consultations and make direct TV transmissions directed at another state dependent on an agreement between the states concerned.

The issue has come up for discussion also in the Sub-Committee. No agreement has, however, been reached. The overwhelming majority of the Sub-Committee of 47 members has agreed that the consent of the terminal state should be required for the transmission. A few states have, however, on the plea of a free flow of information rejected this standpoint. The latter states have presented this principle as one recognized by international law and so have represented their standpoint as such being solely in agreement with the rules of international law.

Yet is there in reality such a generally recognized principle of international law ? If we consider the practice followed by the states we have to come to the conclusion that never a state has recognized the unconditional right of another to forward information of whatever kind to its territory. Owing to the new means of mass communication born in the wake of technological development the problem has emerged in a novel form and has received increased importance. It was as early as the times of the League of Nations when sponsored by this organization a convention was signed in Geneva on the 23rd September, 1936, concerning the use of broadcasting in the cause of peace, aimed at the suppression of messages in radio broadcasts which were directed against the internal order or the safety of another country, included war propaganda or owing to inaccurate statements endangered international concord.[17]

After the Second World War in the first session of the United Nations the question of the freedom of information was raised. Then and in following sessions a few resolutions of the nature of recommendations came to be passed, which, of course, were void of binding force under international law. In 1948 under the auspices of UNO an international conference attended by a large number of states met in Geneva, whose function would have been to elaborate a convention on the freedom of information. Still the draft as formulated by the conference is still before the General Assembly, which on account of the clashes of opinions is unable to pass a resolution. A similar fate has been accorded to a draft declaration submitted by certain western states through ECOSOC in 1960.[18] Article 19 of the Uni-

versal Declaration of Human Rights approved by the General Assembly in 1948 includes in art. 19 a provision according to which "Everybody has the right ... to seek, receive and impart information and ideas through any media and regardless of frontiers." This in a generalized form formulated thesis, which too has been laid down in a resolution of the General Assembly, cannot, however, be considered an instrument of international law of binding force notwithstanding the considerable moral weight attached to the Declaration.

On the other hand the covenants on human rights are of an altogether different nature. These already qualify as instruments of international law invested with binding force. Article 19 of the Covenant on Civil and Political Rights states that the right of the freedom of expression implies the freedom to seek, receive and impart information and ideas, of all kinds, regardless of frontiers. At the same time, however, the covenant immediately declares that the exercise of these rights is associated with special duties and responsibilities. Consequently these rights may be made subject to certain restrictions, among others in the interest of national security, public order, public health or morals. In other words this means that the states without hampering the enforcement of the given rights can in their municipal legislation set up limits to the exercise of the right of expression.

Both the propagation of information and the rightful setting up of limits to it cannot be effective, however, unless the states concerned agree on some sort of cooperation in both respects. The want of cooperation implies the risk that the states might exploit direct TV broadcasting for propaganda as well as counter-propaganda, or possibly have recourse to such measures as are aimed at the prevention of broadcasts transgressing the limits set up by them, or prevent them from being received. It is obvious that measures of this kind might be prejudicial to the peaceful coexistence of the different states.

Cooperation aiming the elimination of these risks means the agreement of the states on direct television broadcasts. This cooperation may imply the acceptance of the principle that for direct TV broadcasts the agreement of the receiving state should be required, as laid down in the drafts on the one part the Soviet Union[19] and on the other, Canada and Sweden[20] submitted to the Legal Sub-Committee. Both instruments clearly state that direct television broadcasting by means of artificial satellites directed to another state cannot take place unless by consent of this state. The same principle has been laid down in the Argentinian draft, which demands the prior consent of the state concerned and expressly precludes even the chance of a tacit agreement.[21] Nor does the draft substantially depart from these which the working group set up by the Committee on the Peaceful Uses of Outer Space at its 1977 Vienna session in the course of the discussion of the Legal Sub-Committee's report, has put forward. This draft requires the consultation and the agreement of the states concerned for direct television broadcasts.

The agreement of the states would, however, be imaginable even in a more general form, if the agreement defined the contents of the broadcasts

or described in detail the kinds of broadcasts which should be regarded as prohibited. A definition of this kind has been taken up in the Soviet draft, yet in combination with the principle of express consent. The question remains, however, to be answered whether a general definition of the content of the broadcasts would in the event of the elimination of the concrete consent of the receiving state suffice for the safeguard of the interests of that state. What may be accepted as certain is that this definition of the content of the broadcasts might give occasion for innumerable frictions between states and therefore in any event provisions have to be made for the appropriate means of settlement of disputes likely to arise.

The settlement of the problem of direct TV broadcasts has to some extent been facilitated by the agreements laid down in the Final Acts of the World Administrative Radio Conference sponsored by the International Telecommunication Union and held in Geneva in the beginning of 1977. Since the broadcasts in question can take place only by means of artificial satellites placed on the geostationary orbit, whose number is, as has been mentioned, limited, and since for technical reasons not to be detailed here actually only the 12-GHz frequency band can be exploited for the purpose of direct broadcasting, except for the American continent the agreements distribute the frequency bands and orbital positions to be used by the states concerned. In general owing to their width the particular bands are suitable only for comprising the territory of the given state. This also implies that for states of large geographical dimensions several orbital positions have to be earmarked, from which then by exploiting the specified frequency band the various regions of the state could be beamed.[22] This means that on the grounds of the agreements arrived at direct broadcasts can provide only the territory of the country concerned, which of course does not guarantee the elimination of spill-overs to the frontier regions of adjacent countries. Broadcasts directed to beyond the frontier cannot, however, take place.

Hence the situation has undoubtedly changed since the agreements referred to had been enacted. Still we cannot by far state that the anxieties of the states which demand the consent of the receiving state for direct TV broadcasts had become wholly unfounded. Apart from the fact that the agreements coming into operation as from the 1st January, 1979 have been signed for a term of fifteen years, certain doubts are apt to arise because these agreements tried to settle issues of a political nature with purely technical rules. The violation of international rules of a technical nature is judged by international public opinion in general with greater lenience than would that of provisions of greater political importance. From this the conclusion may be drawn that some sort of a harmony should be brought about between the method of settlement and the character of the issue. It is, therefore, rightful that a large number of states bring forward their claim to have the issue in question of a political weight settled by provisions of international law of even weight. At the same time we have to recognize, however, that the adoption of the Final Acts of 1977 has removed much of the difficulties in the way of settlement and

there is reasonable hope that if for the time being not by a treaty or convention still at least by the taking up certain general principles in a resolution of the General Assembly the conduct may be defined the community of nations expects from the particular states in connexion with direct TV broadcasting by means of artificial satellites.

* * *

Finally among the most timely questions awaiting regulation mention has to be made of the problems relating to remote sensing from outer space. It is commonly known that from the cosmic space terrestrial phenomena may be observed which defy observation from the Earth or the air space. This remote sensing is of utmost importance for purposes of environmental protection, the prevention of natural disasters, the improvement of meteorological prognostications, the improvement of the reliability of crop estimates, etc. Of particular practical significance is remote sensing of the earth from the cosmic space for the discovery of the places of occurrence of mineral resources. The data transmitted from outer space together with terrestrial data provide useful information of the places of occurrence of those resources.

Naturally remote sensing performed by a state in respect of its own territory does not call for regulation under international law. The situation will become an altogether different one, when an artificial satellite launched into space by a state performs remote sensing above the territory of another state. The first question that has to be answered is whether in conformity with international law remote sensing directed by the one state to the territory of another is permitted. It would be useless to look for an unambiguous answer to this question in the Space Treaty. Article I of the Treaty merely states that 'Outer space... shall be free for exploration and use by all States without discrimination of any kind'. Article III lays down that 'States Parties to the Treaty shall carry on activities in the exploration and use of outer space ... in accordance with international law', and specially emphasizes that this has to be done in agreement with the Charter of the United Nations.

Strictly speaking from the provisions here quoted it only follows that the exploration and use of outer space are free for any country. Still this does not want to say that outer space is free also for such *earth-directed* activities which are not in agreement with the rules of international law. Accordingly the conclusion suggests itself that since every state may within its own sovereignty define the data which it wants to disclose or to keep secret in respect of its territory, any remote sensing activity by another state in respect of this territory against the will of the state concerned is barred as interference into the sphere of the domestic jurisdiction of the state.

At the same time it has to be remembered, however, that in this respect a rule of customary law to the contrary is *in statu nascendi*, moreover it may justly be assumed that this rule has since become established. Remote sensing is namely in progress on the part of the states which are

in possession of the appropriate technological means. The states are fully acquainted with this activity, however, so far scarcely any protests have been sounded against it. We may, therefore, make the statement that the states have tacitly agreed to remote sensing activities, moreover they have tried to obtain the data other countries gained through their activities of their territory merely in order to exploit these for their own purposes.[23]

By this we do not want to state as if in the UN Committee on the Peaceful Uses of Outer Space and its two sub-committees certain developing countries had not, on the plea of their sovereignty, objected to remote sensing without their previous consent. At the same time, however, to our knowledge concrete protests on an interstate level have been made sporadically only. From this the conclusion may be drawn that the states in general have considered and are considering the manifold use of remote sensing something in the interest of the community of nations. At the same time it cannot be called into doubt that the tying of remote sensing to a preliminary agreement might hamper this activity which among others also serves the prevention of great natural disasters or at least the mitigation of their effects. In addition considerable technological difficulties might have to be overcome in the event of an adjustment of the operation of the equipment of remote sensing satellites, or their switching on and off, to the frontiers of the particular states. Nor can it be doubted that the prohibition of remote sensing would call for the adoption of a legal norm whose respect could not be controlled by the technological means now available. The enactment of such a norm would hardly serve the peaceful coexistence of the states, and is rather apt to introduce disturbing effects into the international relations.

A point which may and even ought to be settled by a provision of international law is the use to be made of the data obtained through remote sensing. Here two opinions are conflicting. According to the one, mainly advocated by the United States, the data should be made accessible to all irrespective of whether the party interested in them is a state, physical or juristic person. Obviously the accessibility of the data without limitations would enable the large multinational companies to come into the possession of data in the knowledge of which they might acquire a beneficial position much to the prejudice of the territorial state.

On the other hand the holders of the opposing opinion would have the transmission of the data restricted and made dependent on the agreement of the territorial state. A provision of this kind has been taken up in the joint Soviet–French working paper[24], and the Brazilian proposal[25].

In our opinion such a restriction is justified in so far as it applies to the transmission of data to physical and juristic persons. Still one would be hard put to it to find conclusive reasons for the exclusion of the access of the one or the other state to the data when it has been recognized that all states qualify for remote sensing. On the other hand the declaration of the principle taken up in the French–Soviet document appears to be absolutely proper, namely the declaration that the data obtained from the territory of the state serving as the object of remote sensing should

on mutually agreed terms be made accessible to that state, and also the provision of the tentative text elaborated, but still under discussion in the Sub-Committee which recognizes priority to the sensed state in the access to these data.[26]

If we set out from the understanding that no consent is required from the territorially affected state for the performance of remote sensing, and in particular if we recognize that the sensing state can pass on the data or information so obtained also to other states, the issue of the exploitation of the data or information will necessarily emerge, a circumstance which might gravely affect the sensed state. In its 1977 session the Legal Sub-Committee tentatively formulated its Principle No. VIII which with reference among others to the principle that at remote sensing, too, attention should be given to the rules of international law, correctly stated that the states were not entitled to the use of information so obtained to the detriment of the legitimate rights and interests of other states. The thesis is, obviously, self-explanatory and also follows from the universally accepted principles of international law. Still we have to agree in every respect to its express stipulation. The same applies also to the provision incorporated in Principle X according to which the states bear international responsibility for the remote sensing activities they carry out.[27]

On the other hand the less is the stubborn resistance understandable which was put up against the fixation of the principle which the socialist and developing countries brought forward. Most of the western countries represented in the Sub-Committee namely raised protests against the thesis that in the process of remote sensing of the natural resources of the Earth the full and permanent sovereignty of states and peoples over their natural resources should be respected. This principle has been given expression already in Resolution No. 626 (VII) of the UN General Assembly in 1952. Since that the principle has been reiterated in General Assembly resolutions on several occasions, moreover it has been incorporated in both covenants of human rights with binding force, as Article 1, according to which every people may dispose freely of its natural wealth and resources. The representatives of the western states rejected the proposal which wanted to insert the sovereignty over natural resources in the principles to be applied to remote sensing on the plea that remote sensing could not affect this sovereignty. Still if in a large number of cases it is exactly the purpose of remote sensing to explore data relating to the natural resources in the soil of another state and to pass on these data to other states, then it can justly be feared lest information so acquired should be used in a way in fact impairing the sovereignty of the territorial state in respect of its natural resources. For this reason it appears to be wholly justified to insert the principle in question in the series of the principles governing remote sensing, something which could so far take place conditionally only, since the necessary consensus could not yet been achieved.

* * *

In the foregoing discussion we have briefly outlined the most urgent practical problems awaiting settlement, problems namely which have emerged in connexion with the peaceful exploration and use of outer space. We may reasonably reckon with the emergence of a whole series of further problems of which one of the most important will undoubtedly come up in connection with the exploitation of solar energy. All this convincingly proves that technological progress makes its effects strongly felt also in international law, and insists that the scholars of international law use their body of knowledge for the solution of problems apt to arise at growing frequency.

NOTES

[1] As is known no clear-cut provisions concerning the extension of the territorial waters have been taken up in the 1958 Geneva Convention, since none of the proposals has received the required two thirds majority. Still from article 7 defining the notion of a bay and Article 24 on the contiguous zone by inference the conclusion may be drawn that the Convention did not intend to recognize territorial waters of a width in excess of twelve miles.

[2] See the documents Nos. 331, 319, 249, 165, 121, 281, 237, 223 and 229 of the Conference. The standpoint considering the geostationary orbit the natural resource of the state beneath it has been emphasized most strongly by the Ecuadorian document (No. 229).

[3] See document No. 266 of the Conference

[4] See document No. 326

[5] In particular see the statements of the Colombian observer and the delegate of Kenya (U. N. Doc. A/AC. 105/C. 2/SR 277 and A/AC. 105/C. 2/SR. 280)

[6] Brazil, Ecuador, Indonesia, Kenya, Colombia, Congo, Uganda and Zaire.

[7] In his address to the 1977 session of the Legal Sub-Committee R. E. Butler, Deputy Secretary-General of the International Telecommunication Union regarded a height of 130 kilometres as justified.

[8] A non-official draft resolution submitted to the 1978 session of the Legal Sub-Committee correctly stated that the geostationary orbit was inseparable from outer space and that all provisions of the 1967 treaty on the exploration and use of outer space were applicable also to this orbit, further that the placing of an artificial satellite on the geostationary orbit did not create right of ownership as to the orbital positions so occupied or certain sections of the orbit.

[9] I. C. J. Reports 1969, p. 38.

[10] See Resolution 2222 (XXI) of the General Assembly

[11] Hanna Bokor–Szegő in her work Az ENSZ helye a nemzetközi jogalkotásban (The place of the United Nations in international legislation((Budapest, 1976) also maintains the opinion, though without giving reasons for it, that the rules associated with cosmic space had the force of rules of customary law already before the adoption of the declaration by the General Assembly and that these rules had merely been developed by the declaration (p. 71).

[12] The question how many artificial satellites may be placed on the geostationary orbit without the risk of collision or of the mutual interference with their activities cannot be answered in a general form. The number of satellites depends to a considerable extent on the purpose for which these satellites have been launched into space. In 1977 about one hundred space objects were revolving on the geostationary orbit, and for the coming years the launching of about 15 to 20 satellites has been foreseen. Of the about hundred artificial satellites several are no more operative. The artificial satellites approaching the end of their lifetime may be steered clear of this orbit by using the last reserves of their fuel. (On details see the study No. A/AC. 105/203 of the Secretariat of the United Nations.)

[13] Doc. A/AC. 105/C. 2/L. 93

[14] See Doc. WG. I (1978) WP. 2. The working paper received the designation 'Austrian' because the Austrian delegation collected the passages approved in the foregoing years and

the solution taking shape as to the natural resources of the Moon in genesis and consolidated all these in a single uniform draft after the necessary small corrections had been inserted.

[15] It would be ridiculous to enlarge on the occasionally emerging 'problem' whether a regulation should be brought about "only" in respect of the celestial bodies of the solar system or should such a regulation be extended to celestial bodies beyond the solar system. The space treaty speaks of celestial bodies in general terms only. The draft tries to specify its scope and therefore expressly extends its validity to celestial bodies within the solar system, and expressly exempts the Earth from under its operation. Any treatment of celestial bodies outside the solar system at present has its justification only in sci-fi literature. The exemption of the Earth from under the operation of the treaty is wholly justified, as the planet on which we are living cannot for the purpose of legal regulation be treated in the same way as other celestial bodies.

[16] Doc. A/AC. 105/171 Annex II, p. 2

[17] League of Nations Treaty Series, vol. CLXXXVI, 1938, p. 301 The convention was put into operation in 1938, still many of the signatories did not ratify it, so among others the Soviet Union. Hungary is not party to the convention.

[18] For details of the fate of the draft convention and draft declaration see Kolosov, Y. M.: Massovaya informatsiya i mezhdunarodnoe pravo (Mass information and international law) Moscow, 1974, pp. 117 et seq.

[19] See A/AC. 105/WG. 3(V)/CRP. 1

[20] See A/AC. 105/WG. 3/L. 4

[21] See A/AC. 105/WG. 3(V)/CRP. 3

[22] Exceptions are certain groups of states (Scandinavian states, certain Arab states) which by agreement of the states forming the group have been accorded wider facilities of beaming, so that international broadcasts are feasible within this group.

[23] The Soviet Union makes these data available upon request to the territorially concerned states. On the other hand the United States places these data at the disposal of anybody.

[24] A/AC. 105/C. 2./L. 99

[25] A/AC. 105/122

[26] In conformity with one of the principles the Sub-Committee has elaborated the data that have to be placed at disposal "timely", and in any case no later than to any other third state.

[27] In the Report of the 1978 session the principles referred to above have been given serial numbers by one higher. The reason is that the Sub-Committee has inserted a further principle containing the definition of the terms incorporated in the principles at the beginning of the wording, giving it the serial number I.

ÜBER EINIGE AKTUELLE FRAGEN DES WELTRAUMRECHTS

(RESUME)

Die rapide Entwicklung und die bereits in die Wege geleitete praktische Anwendung der Weltraumtechnologie bringt die Notwendigkeit der rechtlichen Regelung der bis jetzt ungelösten allgemeinen Probleme des Weltraums mit sich. Zugleich wird auch die Dringlichkeit einer entsprechenden Regelung der konkreten praktischen Anwendungsmethoden der Raumtechnologie offensichtlich.

Zwei der allgemeinen Probleme liegen bereits seit mehreren Jahren vor dem Rechtsunterausschuss für Weltraumfragen der UNO, und zwar die Abgrenzung von Weltraum und Luftraum, sowie die Festsetzung des Rechtsstatus des Mondes. Das schwierige Problem der Abgrenzung konnte bis jetzt dadurch umgangen werden, dass die Staaten ihre Bemühungen auf die Schaffung von Rechtsnormen konzentrierten, die die Regelung der im Weltraum entfalteten Tätigkeiten bezweckten. Die – vom rechtlichen Gesichtspunkte zwar unbegründeten – Ansprüche der Äquatorialstaaten auf die geostationäre Erdumlaufbahn haben jedoch die Aufmerksamkeit wieder auf die Abgrenzungsfrage gelenkt. Es ist aber vorwiegend der voraussichtlich bald erfolgenden Inbetriebsetzung des „space-shuttle" zuzuschreiben, dass auch diejenigen, die sich vor einer eingehenden Besprechung des Abgrenzungsproblems bisher verschlossen hatten, ihren Standpunkt jetzt sorgfältig überprüfen.

Hinsichtlich des Rechtsstatus des Mondes soll erwähnt werden, dass der entsprechende Vertragsentwurf bereits vor längerer Zeit durchberaten wurde, die allgemeine Zustimmung der Mitgliedstaaten des Rechtsunterausschusses wird jedoch durch die Meinungsverschiedenheiten über die Frage der Ausbeutung der natürlichen Ressourcen des Mondes behindert, eine Frage also, die erst in einer fernen Zukunft aktuell werden dürfte. Die Entwicklungsländer fordern die Aufnahme einer Bestimmung, wonach der Mond und seine Ressourcen „das gemeinsame Erbe der Menscheit" bilden. Dies wäre aber für andere Staaten nur dann annehmbar, wenn der genaue Inhalt dieses verschwommenen Begriffs in räsonnabler Weise geklärt würde.

Von den Fragen, die mit der praktischen Anwendung der Raumtechnologie zusammenhängen, befassen sich die UNO-Organe bereits seit einiger Zeit mit den Problemen des direkten Satellitenfernsehens, sowie der Fernbeobachtung der Erde.

Bei dem ersten Problem gerät die staatliche Souverenität in Zusammenstoss mit dem durch einige verfochtenen Prinzip des sog. „freien Strömens der Information". Eine Lösung des Problems ist nur aufgrund der Achtung der Souverenität vorstellbar, was am besten durch die vorherige Zustimmung des Empfängerstaates zur Fernsehsendung gesichert werden könnte. Auch das zweite Problem berührt die staatliche Souverenität, da die Fernbeobachtung vor allem – obwohl keineswegs ausschliesslich – auf die Erkundung von Lagerstätten der Bodenschätze gerichtet ist. Obzwar auch in diesem Falle die Erforderlichkeit der Zustimmung des beobachteten Staates begründet werden könnte, muss es doch festgestellt werden, dass eine gewohnheitsrechtliche Regel im Entstehen begriffen ist, die die freie Ausübung der Fernbeobachtung anerkennt. Dabei scheint es aber unbedingt nötig, Rechtsnormen zu schaffen, die die Regelung der Verwendung der ermittelten Informationen zum Zwecke hätten.

Es muss auch damit gerechnet werden, dass in einer nicht allzu fernen Zukunft weitere Rechtsprobleme, die durch die praktische Anwendung der Weltraumtechnologie entstehen, gelöst werden müssen. Eines der wichtigsten dieser Probleme wird sich voraussichtlich aus der Nutzung der Sonnenenergie ergeben.

О НЕКОТОРЫХ АКТУАЛЬНЫХ ПРОБЛЕМАХ МЕЖДУНАРОДНОГО КОСМИЧЕСКОГО ПРАВА

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(Резюме)

Бурное развитие космической техники и начало практического применения ее с одной стороны выдвигает необходимость юридического регулирования общих еще нерегулированных проблем космического пространства, с другой стороны делает обоснованной неотложность юридического регулирования конкретных практических способов применения техники.

Из вопросов общего характера два уже несколько лет стоят перед подкомитетом по космическому праву ООН, а именно отграничение космоса от воздушного пространства, а также определение правового статуса Луны. Трудную проблему отграничения до сих пор можно было обойти благодаря тому, что государства направляли свои усилия международного правотворчества скорее на регулирование деятельности в области космического пространства, однако юридически необоснованные требования, связанные с геостационарной орбитой, выдвинутые странами, находящимися на экваторе, снова привлекли внимание на вопрос отграничения. Но скорее ближайшее введение в эксплуатацию space-shuttle является фактором, который принуждает и те государства тщательно пересмотреть свои взгляды, которые до сих пор решительно отклонялись от серьезного обсуждения проблемы отграничения. Проект международного соглашения, преследующий регулирование статуса Луны, который в случае принятия полезно дополнял бы распоряжения договора о мировом пространстве 1967 г., уже практически давно готов, и окончательному его

одобрению мешают разногласия в вопросе эксплуатации природных ресурсов Луны, которая в далеком будущем станут актуальной. Требование развивающихся стран, по которому Луна и ее природные ресурсы составляют «общее наследство человечества» может быть принято другими государствами только в том случае, если разумно будет определено точное содержание этого туманного понятия.

В связи с практическим применением космической техники, из вопросов, ожидаемых регулирования, органы ООН уже определенное время занимаются комплексом вопросов непосредственного телевизионного вещания и дистанционного зондирования, проводимого из космоса. Что касается первого круга проблем суверенитет государства противоречит так называемому «принципу свободного потока информаций», установленному некоторыми государствами. Решение можно найти только в случае уважения суверенитета государств, что обеспечило бы предварительное согласие на телевизионное вещание государства, на территорию которого направляется телевизионное вещение. И другой круг проблем затрагивает вопрос суверенитета госадурства, т. к. дистанционное зондирование из космоса ставит себе целью, хотяи не исключительно, но в первую очередь распознание местонахождения природных богатсв земли. Хотя и здесь была бы обоснованной необходимость предварительного согласия заинтересованного государтва, все-таки следует установить, что формируется правило обычного права, признающее свободу дистанционного зондирования. При этом однако считается безусловно регулируемым вопрос применения информаций, полученных путем дистанционного зондирования земли.

В скором будущем, в связи с практическим применением космической техники, ожидается постановление все более новых проблем, из которых одна из самых важых будет связана, по всей вероятности, с применением солнечной энергии.